

United States House of Representatives
Testimony for Committee on the Judiciary, Full Committee
Oversight Hearing on "Is the Reid-Kennedy bill a repeat of the failed amnesty of 1986?"

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"Let us Not Repeat the Amnesty Mistake of 1986"

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In June, I helped organized an Open Letter on Immigration calling for "Enforcement First." The signers included: Newt Gingrich, Thomas Sowell, Bill Bennett, William F Buckley, Robert Bork, David Horowitz, Phyllis Schlafly, David Keene, Rich Lowry (editor of National Review), Fred Ikle (arms control director under President Reagan), Beverly LaHaye (Chairman of the Concerned Women of America), David Frum (former speech writer for President Bush), Andy Ramirez (Chairman, Friends of the Border Patrol), Stephen Steinlight (former National Affairs Director of the American Jewish Committee), and Thomas L. Bock, the National Commander of the American Legion.

The Letter declared: "In 1986 Congress passed Comprehensive Immigration Reform that included amnesty for three million illegal immigrants and interior enforcement (i.e., employer sanctions). Amnesty came, but enforcement was never seriously implemented either at the border or in the interior. "

"Let us not make this mistake again. First border and interior enforcement must be funded, operational, implemented, and proven successful—and only then can we debate the status of current illegal immigrants, or the need for new guest worker programs. We are in the middle of a global war on terror. 2006 is not 1986. Today, we need proof that enforcement (both at the border and in the interior) is successful before anything else happens. As Ronald Reagan used to say, "trust, but verify."

The letter also states, "Moreover, we say thank you Jim Sensenbrenner, Peter King, and the bi-partisan House majority, including 36 Democrats that supported HR 4437. In addition, the letter thanks the Senators who opposed Reid-Kennedy and declares in the final sentence, "You in the House and the majority of Senate Republicans are right to emphasize that Congress and the President must deal with enforcement first and other issues later. Stand fast; the American people are overwhelmingly with you."

A Zogby poll reveals that the American people prefer the House bill to Reid-Kennedy by a lopsided majority of 2 to 1 (64 percent to 30 percent). A Rasmussen poll finds that 67% of Americans believe that the US should enforce existing laws and control the border before "new reforms are considered."

Supporters of Reid-Kennedy claim the bill strengthens enforcement. It actually weakens enforcement. This enforcement argument (including both border security and employer sanctions) is a major reason to choose House 4437 over Senate 2611.

According to University of Missouri law professor Kris W. Kobach, former attorney general John Ashcroft's chief advisor on immigration law from 2001-03, Senate 2611 would actually weaken the War on Terror. Professor Kobach argued that, under Reid-Kennedy, local police would be restricted from arresting people for civil violations of immigration law. He pointed out that five of the 9/11 hijackers had in fact committed these civil violations, but if, for example, they were stopped for speeding (as four of the terrorists were) local police could be prevented, under Reid-Kennedy, from checking their immigration status.

The result, argued Professor Kobach, would be nothing less than "disastrous," and "would significantly undermine the United States in the war on terrorism." The supporters of Reid-Kennedy apparently do not believe that local police should have the authority to check a future Mohammed Atta's immigration status.

House bill 4437 is serious about establishing border security barriers and, most importantly, contains a crucial provision on employment verification. On the other hand, S 2611 does not have the House's strong employer sanctions provisions; limits the scope of border security fencing; and, incredibly, requires U.S. officials to "consult" with both the Mexican government and "the affected communities" (i.e., open-borders activists) before even being permitted to begin enacting these security barriers. In effect, a foreign government and a vocal minority have been given the power to delay the type of security arrangements deemed necessary to protect the United States of America.

Supporters of Senate 2611 claim that comprehensive" reform involves "tough requirements"—notably, the claim that illegal immigrants must "pay all back taxes" and "go to the back of the line" on citizenship. Actually, Reid-Kennedy provides that former illegal immigrants would have to pay no more than three of five years' back taxes—a privilege denied to the rest of us. What is more, they are allowed to form a new line for citizenship, ahead of people who are already waiting legally in their home countries.

It should also be pointed out that the Pence-Hutchison proposal is deeply flawed as well. Senator Jeff Sessions (R., Ala.) has warned that Pence-Hutchison "must not become law" because it "will allow for a virtually unlimited number of immigrants" who "will be overwhelmingly low-skilled." Pence-Hutchison gives no preference to English speakers and high-skilled workers. In June, Congressman Steve King of Iowa described the original Pence plan as "more dangerous than the Senate bill" because, in the end, it will attract even more illegal immigrants.

Like Reid-Kennedy, Pence-Hutchison is not serious about enforcement. While the guest-worker-amnesty portion of the scheme is not supposed to begin until border enforcement is secured (the much heralded "trigger" mechanism), the measures used to determine

when and if the border has been secured are strictly bureaucratic (for example, how many border patrol agents have been deployed?) They are not results-oriented — that is, they don't require proof that the border has actually been secured. As the National Review put it, under Pence-Hutchison: "The amnesty would go into effect even if there were no evidence that the illegal population was shrinking."

The Reid-Kennedy bill claims to be a "comprehensive" solution, but it is not really "comprehensive." It focuses on the labor supply of low-skilled labor and ignores the crucial issue of assimilating immigrants as patriotic Americans, as if the United States was simply a market and not a nation.

Let us examine the illustrative stories of Andres Bermudez and Manual de la Cruz. These two men were originally illegal immigrants from Mexico. They received amnesty, became legal residents, and eventually naturalized as U.S. Citizens. They took an Oath of loyalty to the United States. They raised their right hands and declared, "I absolutely and entirely renounce all allegiance and fidelity to any foreign prince, potentate, state or sovereignty." But recently Mexico has promoted dual allegiance and these two men reclaimed Mexican citizenship and ran for office in Mexico without giving up their US citizenship.

De La Cruz was elected to the Zacatecas State Legislature in 2004 and in the recent Mexican election Bermudez was elected to the lower house of the Mexican Congress. These men are still American citizens, but they are serving in a foreign government and have taken an oath of loyalty to Mexico. If the Reid-Kennedy amnesty were truly "comprehensive" it would deal with this crucial issue of loyalty to the United States. We are a nation, not simply a market.

The 1986 amnesty is now generally recognized as a mistake. But 20 years ago Mexico did not recognize dual allegiance, now they are actively promoting it. About 40, 000 naturalized American citizens are believed to have voted in the recent Mexican election. If Reid-Kennedy or Pence-Hutchison becomes law 11-12 million illegal immigrants will be eligible for U.S. citizenship, while, at the same time, retaining citizenship to their birth nations—greatly exacerbating the dual allegiance problem and encouraging the diminution of loyalty to the United States. Thus, if Reid-Kennedy or Pence-Hutchison passes, we will not simply repeat the mistakes of 1986, but make the situation worse.

Both Reid-Kennedy and Pence-Hutchison are amnesties. As the House Judiciary chairman declared:

"Let's be clear as to what constitutes amnesty. Amnesty is allowing illegal immigrants to become permanent residents and then citizens. Amnesty can be dressed up as 'earned legalization' or 'going to the back of the line' or a 'path to citizenship.' But in the end, if it grants permanent residency, which is the very prize illegal immigrants are seeking when they come here, it is amnesty."

Let's not make the amnesty mistake again with either Reid-Kennedy or Pence-Hutchison.

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News Release

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**Prominent Conservatives and Civic Leaders Urge President Bush and Congress to Back
Enforcement First on Immigration**

WASHINGTON – Leading conservatives and civic leaders have signed an “open letter” on immigration declaring that “border and interior enforcement must be funded, operational, implemented, and proven successful—and only then can we debate the status of current illegal immigrants, or the need for new guest worker programs.”

The signers include William Bennett, Robert Bork, William F Buckley, Ward Connerly, Newt Gingrich, David Horowitz, David Keene, John Leo, Herbert London, Rich Lowry, Daniel Pipes, Phyllis Schlafly, and Thomas Sowell among others.

Hudson Senior Fellow John Fonte, who organized the letter, said:

“We want to commend the members of Congress who have supported enforcement first including 85% of all Congressional Republicans, 36 Democrats in the House and 4 in the Senate.”

“We particularly want to thank Senator Jeff Sessions (R-AL) and House chairmen Jim Sensenbrenner (R-WI) and Peter King (R-NY) for their leadership role in putting America’s national interests in border and interior enforcement first.”

As a matter of organizational policy, Hudson Institute does not take stances on pending legislation.

**“First Things First on Immigration: An Open Letter to President Bush, Senate Majority
Leader Frist, and Speaker of the House, Hastert”**

Recently, columnist Thomas Sowell wrote: “It will take time to see how various new border control methods work out in practice and there is no reason to rush ahead to deal with people already illegally in this country before the facts are in on how well the borders have been secured.”

We the undersigned agree with this statement. In 1986, Congress passed “comprehensive” immigration reform that included amnesty for around 3 million illegal immigrants, border enforcement, and interior enforcement (employer sanctions). Amnesty came, but enforcement was never seriously implemented either at the border or in the interior.

Let us not make this mistake again. We favor what Newt Gingrich has described as “sequencing.” First border and interior enforcement must be funded, operational, implemented, and proven successful—and only then can we debate the status of current illegal immigrants, or the need for new guest worker programs. We are in the middle of a global war on terror. 2006 is not 1986. Today, we need proof that enforcement (both at the border and in the interior) is successful before anything else happens. As Ronald Reagan used to say “trust, but verify.”

The majority of Republicans in the Senate opposed the recently passed Hagel-Martinez bill. Senator Vitter (R-LA) said that because border enforcement will not be in place, “this [bill] will in fact make the illegal immigration problem much bigger.” The No. 3 Republican in the Senate, Senator Rick Santorum (PA) said, “We need a border-security bill first.” Senator Vitter, Senator Santorum, the majority of Senate Republicans, and the majority of House Republicans are right—we need proven enforcement before we do anything else. Adopting cosmetic legislation to appear to be “doing something” about enforcement, but which actually makes the situation worse, is not statesmanship, it is demagoguery.

We thank the majority of the Senate Republicans (33 in all) and the seven Democrats who supported the Isakson amendment, which insists upon verifiable benchmarks for border security before considering other issues. Moreover, we say “Thank You” to Jim Sensenbrenner, Peter King, and the bi-partisan House majority including 36 Democrats, that passed HR 4437. We may quibble with a clause here and there, but you in the House and the majority of Senate Republicans are right to emphasize that the Congress and the President must deal with enforcement first and other issues later. Stand fast; the American people are overwhelmingly with you.

Signed,

William B. Allen, Professor of Political Science at Michigan State University

William J. Bennett, former Secretary of Education under President Reagan, former Director of the Office of National Drug Control Policy under former President George H.W. Bush

Thomas L. Bock, National Commander of the American Legion

Robert H. Bork, Senior Fellow at the Hudson Institute, former Solicitor General, acting Attorney General, Supreme Court nominee, U.S. Circuit Court of Appeals Judge

William F. Buckley, Jr., founder and Editor-at-Large of *National Review*

Peter Collier, founding Publisher of Encounter Books, cofounder of Center for the Study of Popular Culture

Ward Connerly, former Regent at the University of California, founder and Chairman of the American Civil Rights Institute (ACRI), winner of the 2005 Bradley Prize for Outstanding Intellectual Achievement

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Glynn Custred, Professor of Anthropology at California State University, Hayward, and coauthor of the California Civil Rights Initiative, Proposition 209

John C. Eastman, Professor of Law at Chapman University School of Law, Director of the Center for Constitutional Jurisprudence

John Fonte, Senior Fellow and Director of the Center of American Common Culture at the Hudson Institute

David Frum, former speechwriter for George W. Bush, Resident Fellow at American Enterprise Institute

Frank J. Gaffney, Jr., founder and President of the Center for Security Policy

Newt Gingrich, former Speaker of the House of Representatives, Chairman of the Gingrich Group, Senior Fellow at American Enterprise Institute

Jonah Goldberg, Editor-at-Large of the *National Review Online*, national syndicated columnist

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David Horowitz, cofounder of the Center for the Study of Popular Culture, Editor of FrontPageMag.com

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Wendy Wright, President, Concerned Women for America